

Question: Are there any other auction methodologies or improvements to existing methodologies that might be explored?

Answer: Market specific filings for participants to avoid abuses and speculation at auction. Termination of further bidding on a market-by-market basis, rather than simultaneous stopping rules.

Question: How do spectrum auctions compare with previous assignment methods in attracting new entities to the communications market? How successful have new entrants been in winning licenses at auction? What effect are new entities having on the availability to the public of competitive communications offerings?

Answer: This information is better available to the agency through its application/data files. SBT cautions the Commission, however, that it is difficult to identify "new entrants". Often, new entrants are old companies in a new shell. Also, the Commission should define new entrants not simply as that class of persons who have obtained authority via participation at auction, but it should limit the number to include only those entities which are serving the public through the issuance of those same licenses. As the Commission is aware, numerous parties have received licenses and have not even begun to serve the public from

systems constructed under their purchased authority. Until an entity is providing a competitive service, they are hardly a new entrant into the telecommunications industry.

Question: What are specific examples of new and innovative service offerings or technologies that have been made available to the public rapidly because of auctions?

Answer: None. There is no technology which has been offered to the market which owes its successful introduction to the agency's use of auctions. Such a suggestion has always been silly in the extreme. How a license is granted has nothing to do with the manner of technology employed in delivering services pursuant to that license. The agency should finally put to rest this absurd justification for the use of auctions and publicly admit what all know to be true. The manner and speed in which a license is granted and the underlying service that is brought to the market is within the control of the agency in its allocation and licensing process. Auctions, as compared to any other form of licensing, do not "speed" the delivery of services. Efficient processing of applications backed with strict construction deadlines are a much better method of assuring the delivery of services than raising the cost of delivery via the demand for auction payments.

Question: Has the auction process or the timing of auctions adversely affected the introduction of new technologies in any way? If so, what changes could we make in our auctions process to better facilitate new technologies?

Answer: See, above. Just as auctions do nothing to bring technology to the marketplace, they do nothing to impede technology either, except in reducing the amount of money carriers possess to purchase and development technology. SBT respectfully notes that the agency's rules have not mandated the use of any technology, therefore, by rule of law no new technology can be expected to emerge except those which the licensees, not the Commission, have determined are necessary or prudent.

Question: How have the Commissions's competitive bidding rules facilitated delivery of new and competitive telecommunications services to rural and/or underserved areas?

Answer: The Commission's use of auctions has placed such a premium on licenses that there exists an even greater disincentive for successful participants to construct systems in rural areas, where profitability is less. Therefore, the Commission's question should not be prefaced with "[h]ow have..." but rather with "has the..." so that one can respond with a clear "no". Simple logic should assist the agency in answering this question. If an auction

"winner" must pay a heavy price to the federal government, the licensee must move to construct services in the most profitable areas first and limit its construction to only those areas for an extended time to recoup (if possible) the cost of auction payments and construction. Only when the service reaches profitability (which is delayed by the payment of auction fees) does it become economically prudent to extend the delivery of services into less populated and less profitable areas. Therefore, the auction of spectrum in association with "substantial coverage" rules, which do not demand construction in rural areas, actually delays the offering of new services in rural areas.

Question: What effect have the Commission's rules on geographic service area size and the size of spectrum blocks had on delivery of new technologies and services to rural and/or underserved areas?

Answer: Although the Commission has assigned construction of wide area systems to particular licensees, the agency's barely noticeable construction requirements which might, but don't, assure construction in rural areas create an even greater likelihood that rural residents will be waiting for the vaunted services for a long, long time.

Question: How well have service-specific performance requirements, including build-out requirements, ensured the prompt delivery of new and competitive service to rural and/or underserved areas?

Answer: See, above. This question is premature. Since the agency's build-out requirements are too new to test, one cannot state with certainty that anything positive will come from the agency's requirements. What one can say is that the agency has not provided much incentive for licensees to do much in the rural areas other than claim a right to be free from competition on the subject spectrum.

Question: What effect have the Commission's policies on geographic partitioning and spectrum disaggregation had on improving opportunities for delivery of new technologies and services to rural and/or underserved areas?

Answer: None. The newly mentioned possibility of disaggregation and partitioning is subject to negotiation and speculation. It provides no dependable means of providing relief to disenfranchised rural entities, other than an unsupported hope that an auction winner might have a few channels that it would be willing to share for a price.

Question:

How have the Commission's ownership policies (e.g., attribution rules and spectrum caps), eligibility restrictions (e.g., entrepreneurs' blocks) and favorable payment terms (e.g. bidding credits, reduced upfront and down payments, and installment payment plans) affected the ability of small businesses, rural telephone companies and business owned by women and members of minority groups ("designated entities") to participate successfully in the competitive bidding process? In particular, have these provisions provided significant opportunities for rural telephone companies?

Answer:

See, supra The Commission's record to date has been so poor that a specific response to each portion of this question would result in a reiteration of the main of these comments. Suffice it to say, the agency's limited and ineffective efforts to provide meaningful access to licensing through competitive bidding procedures for legitimate small businesses, in particular incumbent operators, has been a tribute to a political agenda of revenue collection without mercy. No agency rhetoric within this Inquiry can change this fact. And no decision by the courts or actions taken by Congress can adequately explain the agency's callous treatment of small business, minority owned business, women owned business, and rural telephone companies. The agency is 14 auctions in, and it still requires comments from others regarding how or if it has been doing its

job. SBT respectfully notes that the agency didn't listen to designated entities in creating its auctions or the methods it would employ in holding those auctions. Why in the Sam Hill should designated entities believe that the agency gives a whit about them now for the purpose of making comments to Congress?

Conclusion

Insofar as the agency is interested in providing an honest response to Congress, rather than a bushel of political spin control, the agency must admit that it has failed in its efforts to provide meaningful access to licensing for legitimate small businesses and other designated entities by use of competitive bidding. Its attempt to whitewash the record by use of meaningless statistics is embarrassing. The only result that it can claim proudly is that it performed extremely well in assisting the federal budget negotiations to bring the opposite political parties together, by placing the public interest on the block. Somewhere in the equation, the politicians, regulators and policy wonks forgot the real primary goal of the agency, to manage the radio spectrum in promotion of the public interest, convenience and necessity -- and none of these three factors come with a price tag. It is disturbing that the Commission has requested information from the public regarding whether it has successfully managed to promote, administer, and "score" its auction efforts for the purpose of placing a dollar value on its actions. It is increasingly disturbing for the agency to be seeking comment on methods to increase its future auction efforts, for the primary purpose of achieving higher values at future auctions.

SBT respectfully points out to the Commission that it is an independent agency of government and that its actions are within its discretion as the parameters of that discretion are set forth by statute. The political machinations of Congress are not supposed to intrude on the agency's mission of managing the radio spectrum. The Commission is not the Congressional Budget Office and should not be employed for purposes which are outside of its responsibility or control. Its goal in providing good and honest government should be focused on the provision of services, not tax collection. The tenor of the Commission's Inquiry demonstrates that the agency should be directed first to examine its track record in managing the radio spectrum to determine whether the Commission has devoted too much time, effort and concern into matters for which it possesses neither the responsibility nor the authority. Congress should be respectfully reminded that the agency was not created for the purpose of balancing the federal budget and that nothing under Title 47 has changed that fact.

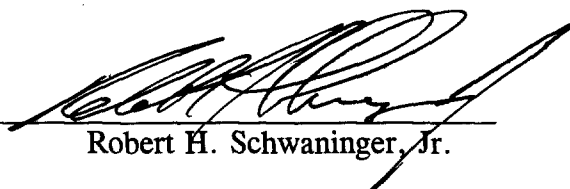
The recent obsession with auctions has caused an unhealthy dilution of the agency's effectiveness in every other area. Enforcement actions are lagging behind demand. Licensing through traditional methods is slowing down. Oversight in other necessary areas is woefully lacking. SBT respectfully suggests that the agency report to Congress that its efforts in assisting Congress in balancing the budget must give way for the more important job of managing the radio spectrum, including protecting the efficient operation of existing radio systems and licensees. The situation is quickly spinning out of control and this agency appears to have lost much of its independence in this political game. SBT, therefore, strongly urges the agency to report to Congress that it will return to its greater priorities, without regard to the outcome of

future auctions, and that future auctions will occur when it is prudent and in a manner which will fulfill the statutory will of Congress, including the provision of meaningful participation by legitimate small businesses, without regard to the eventual levels of revenue to be collected.

Respectfully submitted,

SMALL BUSINESS IN TELECOMMUNICATIONS

By

A handwritten signature in black ink, appearing to read "Robert H. Schwaninger, Jr.", written over a horizontal line.

Robert H. Schwaninger, Jr.

Dated: August 1, 1997

Its General Counsel
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EFFECTS OF THE FCC AUCTION PARTICIPATION RULES ARISING OUT OF THE 900 MHZ SMR AUCTION

Total Number of Markets (MTA's) Auctioned	51
Total Number of Channel Blocks Auctioned	1,020
Total Number of Activity Units Applied To All Blocks	911,537,864

Block Analysis

Total Number of Channel Blocks Purchased By Large Business	772
Total Number of Channel Blocks Purchased By Small Business	113
Total Number of Channel Blocks Purchased By Very Small Business	135
Percentage of Channel Blocks Purchased By Large Business	76%
Percentage of Channel Blocks Purchased By Small Business	11%
Percentage of Channel Blocks Purchased by Very Small Business	13%

Activity Unit Analysis

Total Number of Activity Units Purchased by Large Business	720,321,013
Total Number of Activity Units Purchased by Small Business	98,377,451
Total Number of Activity Units Purchased by Very Small Business	92,839,400
Percentage of Activity Units Purchased by Large Business	79%
Percentage of Activity Units Purchased by Small Business	11%
Percentage of Activity Units Purchased by Very Small Business	10%

Cost Analysis

Total Amount Paid, Less Bidding Credits	\$204,267,144
Total Amount Paid By Large Business	\$141,287,027
Total Amount Paid By Small Business (Net w/Bidding Credits)	\$32,384,914
Total Amount Paid By Very Small Business (Net w/Bidding Credits)	\$30,595,203
Percentage Paid by Large Business	69%
Percentage Paid by Small Business	16%
Percentage Paid by Very Small Business	15%

Cost Per Unit Analysis

Average Cost Per Activity Unit Paid By Large Business	\$0.20
Average Cost Per Activity Unit Paid By Small Business	\$0.33
Average Cost Per Activity Unit Paid By Very Small Business	\$0.33

S B T SMALL BUSINESS IN TELECOMMUNICATIONS

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SUGGESTED REVISIONS TO TELECOMMUNICATIONS ACT

Add new section 47 U.S.C. §308(d) below:

(d) Except in the case of an emergency, any order adopted by the Commission to discontinue the acceptance of any class of applications shall be adopted only following notice and comment rule making and any such order which exists upon enactment of this section, that does not comply with the language contained herein, shall be void. The Commission shall not adopt any such order which might create unjust enrichment of one class of competing applicants as against another class.

Revise 47 U.S.C. §309(j)(4) (D) to add the following double underlined portions:

(D) ensure that small businesses, incumbent licensees, rural telephone companies, and businesses owned by members of minority groups or women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences, auctions in which only some or all of the aforementioned entities might participate, and other procedures; and

Revise 47 U.S.C. §309(j)(4)(E) to add the following double underlined portions:

(E) require such transfer disclosures and financial disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits, including the unjust creation or financing of an entity which seeks benefits under Section 309(j)(4)(D).

Add new section 47 U.S.C. §309(j)(4)(F) below:

(F) not use competitive bidding procedures to decide among mutually exclusive applications for substantially licensed and occupied spectrum, when such procedures would impair an incumbent licensee's ability to compete, provide services to itself, expand its service area, or to add channels to serve an existing service area.

Add new section 47 U.S.C. §309(j)(6)(I)

(I) be construed as a presumption that use of competitive bidding procedures are in the public interest.

CERTIFICATE SERVICE

I hereby certify that on the first day of August 1997, I served a copy of the foregoing Comments on the following by placing a copy in the United States Mail, first class postage prepaid:

Senate Commerce Committee
Small Business Administration
Congressional Budget Office
National Telephone Cooperative
Association
OPASTCO



Tara S. Williams